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ONE HUNDRED NINTH CONGRESS

Congress of the United States

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September 27, 2005

The Honorable William E. Moschella
Assistant Attorney General
Office of Legislative Affairs
United States Department of Justice
Main Justice Building, Room 1145
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Moschella:

On April 20, 2005, President George W. Bush signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, bipartisan legislation representing the culmination of nearly eight years of exhaustive Congressional consideration that was widely supported in both the U.S. House of Representatives and Senate. Many of the Act's consumer bankruptcy reforms, as you know, address various loopholes for abuse that exist in the current bankruptcy system, particularly those that allow individuals to discharge debts even though they can readily afford to repay a substantial portion of what they owe.

The United States Trustee Program is charged with the responsibility, under the Act, to implement many of these reforms, particularly the Act's means test, credit counseling, and financial management training provisions. As one of the Act's principal proponents, I am accordingly writing to bring to your attention several implementation matters in light of the impact of recent hurricanes in the Gulf Coast region.

While the Act clearly gives the United States Trustee the discretion to determine whether a presumption of abuse applies in a Chapter 7 case, I expect the Program to exercise this discretion in way that is most favorable to victims of natural disasters, such as individuals whose financial circumstances are attributable to the devastation inflicted by Hurricane Katrina or Rita. The loss of income and additional expenses that these victims incur as a result of a hurricane or other natural disaster are implicitly the kind of special circumstances that Congress envisioned would constitute an exception to the Act's means test reforms.

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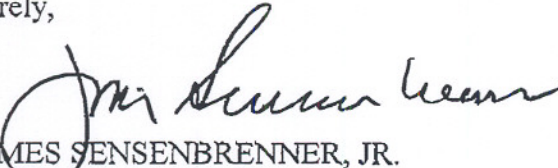
In addition, the Program is responsible for determining whether credit counseling agencies and financial management training providers are reasonably able to provide adequate services to consumer debtors in a district. Again, I expect the Program to make a pragmatic assessment and to take into consideration the impact that a natural disaster has on the availability of such services in the affected districts.

Finally, those provisions of the Act requiring debtors to provide documentation pertaining to such matters as income, expenses, and identification should be enforced by the Program only to the extent practicable under the circumstances. If a debtor, for example, attests that the required document was lost or destroyed as a result of a natural disaster, I hope the Program will take this verified statement into consideration and exercise its discretion in appropriate cases.

While I have focused in this letter on several implementation matters of particular concern to me, I would be interested in learning of any other initiatives the Program may be considering.

I look forward to your Office's continued cooperation on the implementation of the Act.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

FJS/sj